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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

[Docket No. FAA-2001-9854] - 35

**Notice of Alternative Policy Options for Managing Capacity at LaGuardia Airport  
and Proposed Extension of the Lottery Allocation; Extension of Comment Period**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice extending comment period on alternative policy options for managing capacity and mitigating congestion and delay at LaGuardia Airport (LGA).

**SUMMARY:** On June 12, 2001, the FAA requested comments on the feasibility and effectiveness of five different demand management options that could be used to replace the current temporary administrative limits on the number of aircraft operations at LGA. Parties wishing to file comments on these options were given until August 13, 2001.

(The Federal Register notice referred to these options for addressing a longer-term solution at LGA as "Phase Two," Docket 9854. In contrast, "Phase One" (Docket 9852) addressed the temporary extension of the current administrative lottery allocation of slot exemptions at LGA). By this notice, the FAA is extending the time period for public comment on Phase Two from August 13 to October 12, 2001.

**DATES:** Comments on Phase Two must be received on or before October 12, 2001.

**ADDRESSES:** Comments should be mailed or delivered in duplicate, to: U.S.

Department of Transportation Dockets, Docket No. FAA-2001-9854 for Phase Two, 400 Seventh Street, SW, Room Plaza 401, Washington, DC 20590. Comments may also be sent electronically to the following Internet address: <http://dms.dot.gov>. Comments may

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be filed and/or examined in Room Plaza 401 between 10:00 a.m. and 5:00 p.m. weekdays except Federal holidays.

The FAA will acknowledge receipt of a comment if the commenter includes a pre-addressed, stamped postcard with the comment. The postcard should be marked "Comments to Docket No. FAA-2001-9854" for Phase Two. When the comment is received by the FAA, the postcard will be dated, time stamped, and returned to the commenter.

**FOR FURTHER INFORMATION CONTACT:** John M. Rodgers, Director, Office of Aviation Policy and Plans, 800 Independence Avenue, SW, Washington, DC 20591; telephone number 202-267-3274.

**SUPPLEMENTARY INFORMATION:**

**Background**

The FAA recently issued a "Notice of Alternative Policy Options for Managing Capacity at LaGuardia Airport and Proposed Extension of the Lottery Allocation" (65 FR 31731, June 12, 2001). In that notice, commenters were asked to submit detailed analyses of two different market-based approaches, and of three types of administrative options, to allocated capacity at LGA. Commenters were also encouraged, to the extent appropriate, to submit remarks on variations to these options.

By letters dated June 21, 2001 and July 10, 2001, the Air Transport Association of America (ATA, the principal trade and service organization of the major scheduled air

carriers in the United States) and the Regional Airline Association (RAA, the representative of the interests of short-haul scheduled airlines), respectively, requested that the FAA extend the comment period for Phase Two for an additional 180 days. Both associations claim that the options presented would have a significant impact on their members and that the initial 60-day comment period does not provide adequate time for the respective associations to conduct the required analysis of the demand management options proposed in the notice and to coordinate a response with their membership. The associations also state that the proposed options have not been used at other domestic airports and have untested consequences. Additionally, the ATA notes that formulation of comments with regard to congestion pricing options will require extensive economic, operational, and legal analyses. As further support for their motions, both associations state their belief that the ramifications of the inquiry at LGA will be national in scope and determinative of FAA policy. They further argue that the 60-day comment period is unfair because formulation of demand management options proposed in the Notice took the agency several months to complete and consequently commenters should be allowed a similar length of time to respond.

The Airports Council International-North America (ACI-NA) and America West Airlines, Inc. oppose the requested 180 day extension. The ACI-NA stated that a "substantial extension" of the comment period is not warranted since the FAA specifically requested that commenters focus on the broad public policy issues raised in the notice, as opposed to the legal and international issues on which comment will be sought subsequently. America West argued that extension of the comment period would

delay implementation of a new demand management policy at LGA that could provide increased access at LGA for new entrants and limited incumbents. In addition, Congressman Benjamin A. Gilman, in a letter to FAA's Administrator dated June 27, 2001, also expressed opposition to any extension of the comment period, citing that the problem at LGA cannot wait indefinitely for a solution and extending the comment period only favors those who have the resources to weather the status quo.

### **Extension of Comment Period**

Under our rules (14 CFR 11.47), FAA may grant a request for more time to file comments when a requester shows that it is in the public interest and that the requester has good cause. The FAA has determined that it would be reasonable and in the public interest to give commenters more time to prepare their submissions. FAA believes a 60 day extension (resulting in a total of 120 days to comments on Phase Two) provides an adequate time period for commenters to analyze, coordinate, and file comments on the demand management options at LGA. A 180 day extension, on the other hand, (for a total of 240 days to comment on Phase Two) is not necessary, particularly since --as recognized by ACI-NA's comments-- we have requested that commenters "set aside consideration of the current statutory, regulatory, or international authorities" and concentrate their analysis on the public policy considerations. (*See*, 66 FR 31736, 31740, June 12, 2001). Further, as discussed the June 12, 2001 Federal Register Notice, the circumstances at LGA are unique for several reasons, including those pertinent to LGA's effects on the national airspace system, to the scheduled phase-out of the High Density Rule (HDR) at that airport, and to the elimination of the HDR on January 1,

2007. 49 U.S.C. 41715(a)(2). The Office of the Secretary and the FAA, as noted in the June 12 Notice, intend to conduct a broader inquiry into demand-based management options on a nationwide basis, separate from this LGA docket. Accordingly, it is not necessary for commenters to Docket No. FAA-2001-9854 to consider the feasibility of the LGA options on a nationwide scale; additionally, the LGA options will not necessarily be determinative of the Department's policy on a national scope. While we are interested in a prompt study and analysis of longer-term options to allocate capacity at LGA, we realize that the airline industry needs some additional time to formulate and coordinate its comments. The FAA believes an additional 60 days is adequate for commenters to conduct their analyses and provide meaningful comment to the Federal Docket, Docket No. FAA-2001-9854. In addition, the agency will provide opportunity for public comment on future actions concerning the longer-term approach that the agency selects to allocate capacity at LGA. Absent unusual circumstances, the FAA does not anticipate any further extension of the Phase Two comment period of this notice.

Accordingly, the FAA grants, in part, the requests of the Air Transport Association of America and the Regional Airline Association to extend the date by which comments to Docket No. FAA-2001-9854 are due to October 12, 2001; and denies all other requests.

Issued on August 9, 2001 in Washington, DC.

A handwritten signature in cursive script, reading "Richard Rodine". The signature is written in dark ink and is positioned above the printed name.

Richard Rodine,

*Acting Deputy Assistant Administrator for Policy, Planning, and International Aviation*